The Doing Business with the Ontario Government Task Force

Final Report

January 2006

Table of Contents

Executive Summary 1
Introduction 1
Consultation Findings 2
Practical Action Steps: Task Force Recommendations 3
Recommendations for Immediate, Short-term Implementation 3
Recommendations for Medium-term Implementation 4
Taking Action 4
For More Information 5
Terms of Reference 5
Approach: The Consultation Process 6
Practical Action Steps: Task Force Recommendations 8
Recommendations for Immediate, Short-Term Implementation 9
Recommendation 1: Procurement Education Sessions 9
Recommendation 2: Vendor/Government Information Exchange Days 10
Recommendation 3: Outreach Communications 11
Recommendation 4: Mandatory Posting of Contract Award Notices 11
Recommendation 5: Mandatory Vendor Debriefing 12
Recommendation 6: Review Invoice Payment Process 13
Recommendations for Medium-Term Implementation 13
Recommendation 7: Vendor Information Data Base 13
Recommendation 8: Revise Insurance and Limitation of Liability Requirements in Government Contracts 14
Recommendation 9: Financial Requirements under Vendor of Record (VOR) Arrangements 15
Recommendation 10: Develop VOR Arrangements and Requirements Based on Project Risk 16
Recommendation 11: Considering Innovative and Pilot Project Proposals 16
For More Information 17
Appendices 18

The Doing Business with the Ontario Government Task Force Final Report

Executive Summary

Introduction

On January 27, 2005, the Honourable Gerry Phillips, Minister of Government Services (then Chair of the Management Board of Cabinet), announced the creation of the Doing Business with the Ontario Government Task Force to consult with small and medium-sized businesses to help find ways to enhance access to government procurement opportunities.

The task force had a mandate to study Ontario government procurement policies and processes, to help identify barriers for small and medium-sized businesses and make practical recommendations to address these barriers.

Wayne Arthurs, MPP for Pickering-Ajax-Uxbridge, chaired the task force. The task force members were Judy Marsales, MPP for Hamilton West; Phil McNeely, MPP for Ottawa-Orléans; and Tony Wong, MPP for Markham.

The task force wanted to consult with, and listen to, small and medium-sized businesses to find practical ways for the government to be more responsive and to improve how it does business with them. For the purposes of its work, it defined "small and medium-sized businesses" as small and medium-sized enterprises that employ 500 people or fewer.

The work of the task force included consultations in five Ontario communities: Ajax (covering the Greater Toronto Area), Thunder Bay, Ottawa, London and Toronto. The task force invited local MPPs for these communities to attend the consultation sessions. It also invited small and medium-sized businesses and the associations that represent them to send submissions. This report sets out what the task force heard during the course of its consultations and its recommendations to the Minister.

On June 29, 2005, the Honourable Dalton McGuinty, Premier of Ontario, restructured his Cabinet, combining the former Management Board Secretariat and the former Ministry of Consumer and Business Services into the Ministry of Government Services, with Minister Phillips as the Minister. The Ministry of Government Services has retained responsibility for establishing government procurement policies and procedures.

The task force would like to express its appreciation to all of the individuals and associations that took the time to share their experiences and ideas during the consultation process. The feedback has been valuable in gaining an in-depth understanding of the issues that small and medium-sized businesses face when doing business with the Ontario government and in developing recommendations to improve the way the Ontario government does business with small and medium-sized businesses.

Consultation Findings

The consultation process was well received.

Consultation participants said that they appreciated the opportunity to play a part in identifying the issues that small and medium-sized businesses face in doing business with the Ontario government and to contribute to developing ways to find solutions.

Throughout the task force's discussions with small and medium-sized businesses around the province, it heard some common themes about what gets in the way of small and medium-sized businesses selling to the government. In particular, consultation participants identified several issues that they said present significant barriers for them in selling to the government. The issues are: the Ontario government procurement process is too complicated and it favours large companies over small and medium-sized businesses; it is difficult to get information about low-value procurements; it is difficult to find out who buys what they sell; for low-value procurements, government buyers choose vendors they already know and feel comfortable with; government buyers see it as "risky" to buy from small and medium-sized businesses; and responding to government procurement requests is costly and time-consuming for small and medium-sized businesses.

As well, throughout the consultations, participants provided suggestions on how to enhance the Ontario government's current policies and processes for small and medium-sized businesses that want to sell to the government. Some of the suggestions included: providing education packages or programs, in partnership with business associations where possible, to small and medium-sized businesses on how to do business with the government; setting aside certain procurement opportunities for only small and medium-sized businesses to bid on; providing opportunities that may only be bid on by small and medium-sized businesses located in certain parts of the province; increasing the ease and frequency upon which vendors may be added to vendor of record (VOR) arrangements; making better use of technology to simplify and standardize the procurement process, contract documentation and payments; requiring vendor debrief meetings to be offered to unsuccessful bidders; focusing vendor selection more on the quality of services to be provided than on price; and providing relief from the bank merchant rate for vendors accepting the government's purchasing credit card.

Addressing these issues and concerns will require practical action steps that include improving communications and information exchange with small and medium-sized businesses and developing simpler procurement processes.

Practical Action Steps: Task Force Recommendations

Based on its consultations with small and medium-sized businesses, the task force has developed 11 recommendations to address, in a practical way, the concerns expressed.

A more prosperous small and medium-sized business sector is good for Ontario's economy. The task force believes that its recommendations will benefit small and medium-sized businesses by helping them be more competitive and prosperous. The recommendations will also help support the government, as a buyer, by supporting the expansion of the pool of qualified bidders that can offer competitively priced goods, services and innovative business solutions to the government. More competitive bidding on government procurement supports efficient, effective government operations.

Recommendations for Immediate, Short-term Implementation

- To continue the dialogue and discussion between small and medium-sized business vendors and the Ontario government, and in collaboration with small and medium-sized business organizations, begin offering regular (e.g., annual, semi-annually, quarterly) "procurement 101/201" training and information sessions.
- In consultation with small business organizations, create a variety of regular and ongoing vendor/government information exchange days.
- Build on existing and, as appropriate, develop new small and medium-sized business "outreach" materials and facilitate their distribution to small and medium-sized businesses.
- Require all Ontario government ministries using MERX for purchasing goods or services to post the contract award information.
- Revise government procurement policy to make it mandatory for ministries to offer a vendor debriefing as part of their procurement process.
- Examine the Ontario government's current accounts payable process to find out how to shorten the time it takes to pay vendors' invoices.

Recommendations for Medium-term Implementation

- Create a vendor information database for vendors to submit information on their companies for use by the Ontario government in identifying vendors offering low-dollar value goods or services, and for large, external contractors to use in identifying small and medium-sized businesses for potential sub-contracting work. The database would include the vendors' contact information and the goods and services they offer.
- Examine the government's current procurement related insurance and limitation of liability requirements to further enhance their commercial reasonableness.
- Review current procurement practices to determine the feasibility of changing the process for vendors to qualify to become a VOR so that it would not require them to incur the upfront expense of obtaining items such as insurance coverage, until the vendor is actually selected to supply goods or services to the government.
- Develop VOR arrangements with "tiered" risk management terms and conditions, whereby vendors have the option of qualifying for low-risk, medium-risk and/or high-risk assignments.
- Assess if it is feasible to develop a policy framework that will provide a structure for the government to receive and consider vendors' innovative or pilot project proposals.

Taking Action

The Doing Business with the Ontario Government Task Force has presented its recommendations to Minister Phillips. The Minister has accepted the task force's recommendations in principle. He requested the Ministry of Government Services' staff take the lead role in looking into how and where recommendations can be implemented and reporting regularly to him on progress. This work is under way, with a plan to implement several of the recommendations over the next few months. Other recommendations, due to their nature and complexity, will need further internal analysis and consultations with key Ontario Public Service (OPS) stakeholders, including input from the Small Business Agency of Ontario, in order to explore potential implementation options.

The task force believes that implementing its recommendations will give Ontario's small and medium-sized businesses the tools they need to become more competitive and prosperous and to continue to contribute significantly to Ontario's economy.

A copy of this executive summary will be sent to all the consultation session participants and to all those who made submissions.

For More Information

For more information on the Doing Business with the Ontario Government Task Force or Ontario government procurement policies and practices, please:

- visit the Procurement Policy and Information Technology Procurement Branch website at http://www.ppitpb.gov.on.ca; or
- call the branch at 416-327-3555.

For a copy of this executive summary or the final report, please:

- visit the Ministry of Government Services' website at http://www.mgs.gov.on.ca; or
- call 416-327-3555.

Terms of Reference

The Minister asked the task force to review the Ontario government's procurement policies and processes for potential barriers to small and medium-sized businesses. He asked the task force to do this by consulting with and listening to small and medium-sized businesses to help find ways to increase access to government procurement opportunities; studying the relationship between small and medium-sized businesses and the Ontario government's procurement policies and processes; identifying barriers for small and medium-sized businesses by examining the government's procurement policies and processes; and by preparing a report with recommendations for the Minister. Appendix 1 contains the news release announcing the task force and some background information.

The Ministry of Government Services' Procurement Policy and Information Technology Procurement Branch (PPITPB) provided technical and administrative support for the task force. PPITPB is responsible for developing and advising on the Ontario government's procurement policy framework. It prepares requests for proposals, and negotiates and manages government-wide contracts for information and information technology such as hardware, services and software. In addition, the branch provides strategic procurement advice, training and services to government ministries and agencies. It also supports vendor development and the ongoing implementation of Ontario's inter-provincial trade agreements related to procurement.

Approach: The Consultation Process

In carrying out its mandate, the task force wanted to hear directly from small and medium-sized businesses about their experiences in bidding on Ontario government procurement opportunities. Specifically, the task force wanted to know: What are small and medium-sized businesses' experiences in finding out about, and bidding on, Ontario government procurement opportunities? What is and is not working? In terms of its current procurement policies and processes, what can the Ontario government build on? What does it need to change?

The task force consulted with small and medium-sized businesses in two ways. It held consultation meetings around the province and it invited formal submissions.

Between February 28, 2005 and March 31, 2005, the task force conducted one-day consultation meetings in five Ontario communities — Ajax (covering the Greater Toronto Area), Thunder Bay, Ottawa, London, and Toronto. It publicized the consultation meeting dates and locations through province-wide advertisements in daily newspapers and on the website of the former Management Board Secretariat (now Ministry of Government Services). A sample advertisement is in Appendix 2.

In addition, on February 18, 2005 the task force extended an open invitation for small and medium-sized businesses to send written or e-mail submissions. It accepted submissions until April 4, 2005.

Many small and medium-sized business owners and the associations that represent them responded to this invitation by participating in a consultation meeting and/or by making a formal submission.

Figure 1 illustrates the activities that the task force carried out and its schedule for completing its work.

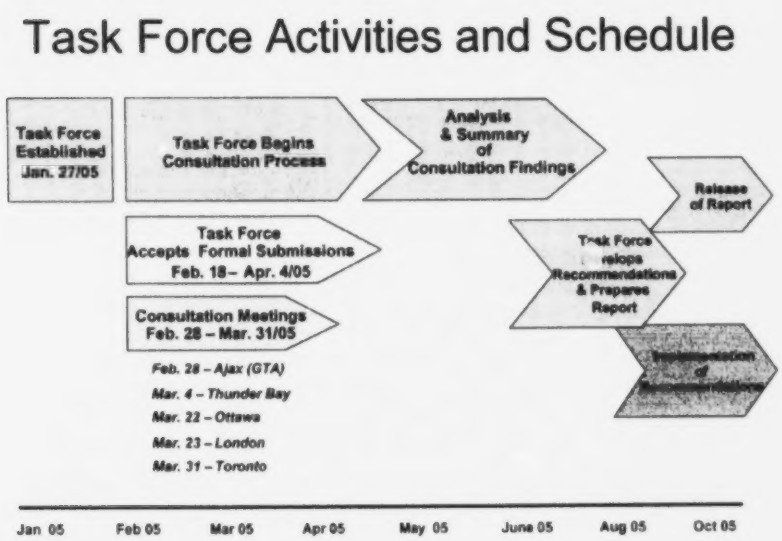

Task Force Activities and Schedule
Task Force Established Jan. 27/05
Task Force Begins Consultation Process
Analysis & Summary of Consultation Findings
Release of Report
Task Force Accepts Formal Submissions Feb. 18 – Apr. 4/05
Task Force develops Recommendations & Prepares Report
Consultation Meetings Feb. 28 – Mar. 31/05
Feb. 28 – Ajax (GTA)
Mar. 4 – Thunder Bay
Mar. 22 – Ottawa
Mar. 23 – London
Mar. 31 – Toronto
Jan 05
Feb 05
Mar 05
Apr 05
May 05
June 05
Aug 05
Oct 05

Figure 1

The task force members understood and appreciated the cost to a small and medium-sized business to participate in a day-long consultation meeting. Consequently, the members wanted to make sure that the consultations were a worthwhile investment of the participants' time and expertise.

In developing the consultation agenda (Appendix 3), the task force's goal was to give participants several ways to participate and to be heard. The agenda included roundtable discussions, question and answer sessions, "idea cards" for participants to jot down their suggestions and concerns, and the opportunity for participants to make oral submissions of up to 10 minutes in length.

All the consultation participants had the opportunity to speak directly with one of the task force members. The task force also wanted to give consultation participants the opportunity to hear from, and talk with, the government's procurement experts. At each consultation meeting, a ministry employee made a presentation on the Ontario government's procurement policies and processes (Appendix 4). The ministry speakers were available throughout the day to consult directly with the participants, to answer their questions and to hear about their specific areas of interest and concern. Ministry of Government Services' employees kept a summary of all the questions and comments from the roundtable and plenary discussions. All the sessions were open to members of the media to observe.

The task force gave all the participants a resource kit. It included copies of the presentation, the "How to Do Business with the Government of Ontario" guide, a MERX

Task Force Activities and Schedule

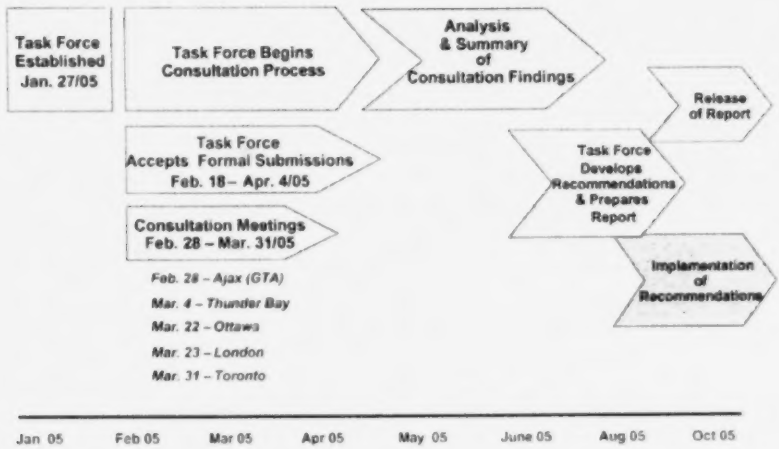

Task Force Established Jan. 27/05
Task Force Begins Consultation Process
Analysis & Summary of Consultation Findings
Release of Report
Task Force Accepts Formal Submissions Feb. 18 – Apr. 4/05
Task Force Develops Recommendations & Prepares Report
Consultation Meetings Feb. 28 – Mar. 31/05
Implementation of Recommendations
Feb. 28 – Ajax (GTA)
Mar. 4 – Thunder Bay
Mar. 22 – Ottawa
Mar. 23 – London
Mar. 31 – Toronto
Jan 05
Feb 05
Mar 05
Apr 05
May 05
June 05
Aug 05
Oct 05

Figure 1

The task force members understood and appreciated the cost to a small and medium-sized business to participate in a day-long consultation meeting. Consequently, the members wanted to make sure that the consultations were a worthwhile investment of the participants' time and expertise.

In developing the consultation agenda (Appendix 3), the task force's goal was to give participants several ways to participate and to be heard. The agenda included roundtable discussions, question and answer sessions, "idea cards" for participants to jot down their suggestions and concerns, and the opportunity for participants to make oral submissions of up to 10 minutes in length.

All the consultation participants had the opportunity to speak directly with one of the task force members. The task force also wanted to give consultation participants the opportunity to hear from, and talk with, the government's procurement experts. At each consultation meeting, a ministry employee made a presentation on the Ontario government's procurement policies and processes (Appendix 4). The ministry speakers were available throughout the day to consult directly with the participants, to answer their questions and to hear about their specific areas of interest and concern. Ministry of Government Services' employees kept a summary of all the questions and comments from the roundtable and plenary discussions. All the sessions were open to members of the media to observe.

The task force gave all the participants a resource kit. It included copies of the presentation, the "How to Do Business with the Government of Ontario" guide, a MERX

brochure (MERX is an electronic tendering service that the Ontario government currently uses to advertise and distribute procurement opportunities), and the biographies of and contact information for the task force members, and the ministry speakers. The task force also made a commitment to send the participants an executive summary of its report.

In conversations with the task force members and in the formal evaluations that were part of each session, consultation participants indicated that having the opportunity to hear from, and speak directly with, the task force members and the government procurement staff was much appreciated. Certainly, the task force and the ministry staff greatly benefited from this discussion with small and medium-sized business owners and entrepreneurs.

A number of small and medium-sized businesses and the organizations that represent them made formal submissions — either at the consultation sessions or by sending written and e-mail submissions directly to us.

Practical Action Steps: Task Force Recommendations

Based on its consultations with small and medium-sized business, the task force has developed 11 recommendations to address, in a practical way, the concerns expressed.

For each of its recommendations, the task force describes the benefits to vendors and to the government in implementing the recommendation, and the next action steps for putting the recommendation into place. The recommendations and the associated benefits focus on small and medium-sized business — which was the task force's mandate. However, the task force believes that implementing these recommendations will be helpful to all vendors wanting to sell to the Ontario government.

There are two groups of recommendations — those for immediate, short-term implementation (within 12 months or less), and those for medium-term implementation (more than 12 months) that due to their nature and complexity, will need further internal analysis and consultations with key OPS stakeholders, including input from the Small Business Agency of Ontario, in order to explore potential implementation options.

Recommendations for Immediate, Short-term Implementation

Recommendation 1: Procurement Education Sessions

To continue the dialogue and discussion between small and medium-sized business vendors and the Ontario government, and, in collaboration with small and medium-sized business organizations, begin offering regular (e.g., annually, semi-annually, quarterly) "procurement 101/201" training and information sessions.

The goal of these sessions would be to further develop vendors' knowledge and understanding of Ontario government procurement policies and processes and to provide an opportunity for the government to continue to hear directly from small and medium-sized business owners on their experiences in doing business with the province.

Consultation participants repeatedly said they find Ontario's procurement policies and processes unfamiliar and intimidating. Procurement in the public sector is different than in other sectors. Since tax dollars pay for all Ontario government procurements, it is essential that the process is – and is seen to be – a fair, transparent, open, and competitive one. The procurement processes and related requirements must take these considerations into account. However, this can mean increased complexity. Training and information sessions will familiarize small and medium-sized businesses with the "what" and also the "why" of selling to the Ontario government.

Benefits

A knowledgeable vendor community will also benefit the Ontario government. The more information a vendor has, the better the vendor's proposal to supply goods or services is likely to be. Procurement education sessions should increase vendors' understanding of the government's procurement policies and processes. They should also provide a forum for continuing the dialogue that the task force has begun — that is, giving small and medium-sized businesses the opportunity to hear from government procurement experts about current and proposed policies and initiatives. Equally important, it will give the government the opportunity to be pro-active in asking small and medium-sized businesses for practical, regular, "on-the-ground" feedback and ideas on its procurement policies and processes. Both new and established small and medium-sized businesses could participate in these sessions. The sessions would also provide networking opportunities for small and medium-sized businesses, plus the opportunity to meet and talk with government buyers.

Next Action Steps

To make the best use of small and medium-sized business vendors' time, the government should work with small and medium-sized business organizations to schedule

procurement training and information sessions that co-ordinate with other events for that sector.

Recommendation 2: Vendor/Government Information Exchange Days

In consultation with small and medium-sized business organizations, create a variety of regular and ongoing vendor/government information exchange days.

Small and medium-sized business owners said they found it difficult to find out who buys what they sell and to "pitch" their goods and services. The task force sees vendor/government information exchange days as one way for the government to respond to this problem.

The task force envisions vendor/government information exchange days as an opportunity for small and medium-sized businesses to have vendor booths and/or give demonstrations to government buyers who might be planning to purchase these types of goods and services. There are several ways to offer this kind of event. They include: one session at a central location; several sessions focusing on commodity/service expertise (e.g., consulting services, creative communications services, public relations, information and information technology, etc.); and regional sessions focusing on several areas of commodity/service expertise. The sessions could also incorporate "Procurement 101/201" presentations and workshops mentioned in Recommendation 1.

Benefits

Vendor/government information exchange days would give vendors a forum where they can both showcase their goods and/or services and learn about government procurement plans, policies and processes. As with the procurement education sessions, information exchange days would facilitate a learning exchange between vendors and government buyers — vendors would get the opportunity to learn more about the government and ministry staff can increase their awareness and knowledge of the goods and services that small and medium-sized businesses offer.

Based on the task force's experience during the consultation sessions, regional workshops — customized for local communities and requiring less time and travel costs to attend — would work well.

Next Action Steps

To ensure that these vendor/government information exchange days meet the needs of small and medium-sized business, the government will need to consult with small and medium-sized business associations to ask for their advice on session scheduling, format, and content — then, choose the best approach, implement it, and publicize it.

Recommendation 3: Outreach Communications

Build on existing and, as appropriate, develop new small and medium-sized business "outreach" materials and facilitate their distribution to small and medium-sized businesses.

This should include producing and distributing items such as pamphlets and brochures with general information and related website links on doing business with the Ontario government and lists of government contacts.

Benefits

The more information vendors have, the better position they are in to offer high-quality, competitive bids to provide goods and services to the government. Additional information on Ontario government procurement policy, written in plain, jargon-free, language and presented in a clear and easy-to-use format would help vendors get a better understanding of how to do business with the government.

Next Action Steps

Review the government's current outreach communications to small and medium-sized business. For example, the government could update its "Tips on How to Do Business with the Ontario Government."

The task force's consultation findings should be very helpful in identifying information gaps for revising and/or creating new materials. The outreach materials should be widely distributed to small and medium-sized business vendors through the Ontario Government Information Centres, appropriate government websites, trade shows and MPPs' offices, etc., and sent to small and medium-sized business vendors, on request.

Recommendation 4: Mandatory Posting of Contract Award Notices

Require all Ontario government ministries using MERX for purchasing goods or services to post the contract award information.

Small and medium-sized business owners said it was often difficult to get contract award information.

Benefits

Information on Ontario government contract award information is in the public domain. However, small vendors may have neither the knowledge nor the time to search for the information. Many small and medium-sized business vendors subscribe to MERX and log-on to the site on a regular basis. Posting contract award information for procurements that were announced and distributed via MERX would make it easy for vendors to get

this information. It would also improve the transparency of the Ontario government's procurement process.

Next Action Steps

The government should examine the administrative and cost implications for ministries to post contract award information on MERX and, as appropriate, make the necessary policy changes to implement this requirement.

Recommendation 5: Mandatory Vendor Debriefing

Revise government procurement policy to make it mandatory for ministries to offer a vendor debriefing as part of their procurement process.

Getting feedback on an unsuccessful bid is very important for all vendors, especially for small and medium-sized businesses. The cost to a small and medium-sized business in submitting a bid is proportionately greater than that of a large company, because smaller companies can't afford dedicated resources. Knowing what made the difference between a vendor's unsuccessful bid and the successful one gives the vendor valuable information and insights that the vendor can use in subsequent bids to the Ontario government and, in bids to other public and corporate sector buyers.

Benefits

The formal debriefing session, following the awarding of a contract, is another opportunity for dialogue between small and medium-sized business and the government. As well as getting feedback on unsuccessful bids, vendors have the opportunity to ask any questions that may help them to understand the process and to provide enhanced bids in the future.

Better bids would offer innovative and creative solutions to government program needs (which are often complex), and support small and medium-sized business growth and development.

Next Action Steps

The government should revise its existing procurement policies to include a requirement for ministries to offer vendor debriefings. It will need to support ministries' implementation of this policy change with tools and training for ministry staff on conducting effective vendor debriefing sessions (e.g., how to give constructive feedback; reinforcing an environment in which vendors requesting a debriefing can be confident that it will not prejudice a future bid).

Recommendation 6: Review Invoice Payment Process

Examine the Ontario government's current accounts payable process to find out how to shorten the time it takes to pay vendors' invoices.

Prompt payment of invoices is very important to small and medium-sized businesses and is one of the major areas of complaint that the task force heard.

Benefits

Faster turnaround of vendor invoices would be a big help to small and medium-sized businesses that rely heavily on steady cash flow, supported by timely invoice payments, for their day-to-day operations. Speeding up the payment process will improve relations with vendors.

Next Action Steps

The government should conduct an internal analysis and consultation involving key OPS stakeholders to identify and address any barriers to prompt payment of invoices.

Recommendations for Medium-term Implementation

Recommendation 7: Vendor Information Data Base

Create a vendor information database for vendors to submit information on their companies for use by the Ontario government in identifying vendors offering low dollar value goods or services and for large, external contractors to use in identifying small and medium-sized businesses for potential sub-contracting work. The database would include the vendors' contact information and the goods and services they offer.

Like the recommendation for vendor/government information exchange days (Recommendation 2), a vendor information database would help small and medium-sized businesses to market to government buyers.

Benefits

A vendor information database would provide a way for small and medium-sized business vendors to market their goods and/or services directly to the government and/or to larger companies as potential sub-contractors. It would also give Ontario government buyers access to information on the types of goods and services that small and medium-sized businesses offer for potential use in making low dollar value purchases (i.e., for

goods or services below $25,000 in value or for issuing invitations to submit proposals to provide services between $25,000 and $100,000 in value).

Next Action Steps

The government should identify options for setting up a database that is cost-effective and easy to use by both small and medium-sized businesses and government buyers. This should include identifying the database requirements, conducting the necessary technical analysis and developing the related business case.

Recommendation 8: Revise Insurance and Limitation of Liability Requirements in Government Contracts

Examine the government's current procurement-related insurance and limitation of liability procurement requirements with the objective of ensuring their commercial reasonableness.

The purpose of this examination would be to review the government's process for determining the nature and levels of insurance and limitation of liability requirements to better take into account the level of risk associated with a specific planned purchase. The goal would be to ensure there is an appropriate balance between the protection that the government would need and the commercial reasonableness of the insurance and limitation of liability requirements.

Small and medium-sized business owners said that the amount of insurance the government requires often makes it prohibitive for them to bid. Also, they questioned the appropriateness of the nature and level of the insurance and the limitation of liability requirements, given that different projects have different levels of risk.

Benefits

Requiring vendors to have insurance and limitation of liability requirements that are appropriate to the planned purchase has the potential both to expand the number of small and medium-sized business vendors bidding on government procurement opportunities and to offer the government better prices for goods and services due to lower vendor costs related to meeting those requirements.

Next Action Steps

The government should conduct an internal analysis and consultation with key OPS stakeholders to identify and address any barriers to revising insurance and limitation of liability requirements. It should also further develop implementation tools and guidelines to assist government buyers in selecting the appropriate requirements based on the risk of the planned procurement.

Recommendation 9: Financial Requirements Under Vendor of Record (VOR) Arrangements

Review current procurement practices to determine the feasibility of changing the process for vendors to qualify to become a VOR that would not require them to incur the up-front expense of obtaining items such as insurance coverage, etc., until the vendor is actually selected to supply goods or services to the government.

A VOR arrangement is a list of vendors qualified through a fair, transparent, open and competitive tendering process to provide specific types of goods and/or services to the Ontario government. Becoming a VOR vendor is not a guarantee of receiving a specific volume of, or any, government business. An opportunity for a VOR vendor to supply its goods or services occurs only when a ministry invites vendors on the VOR arrangement to submit bids or proposals to provide those specific goods or services. (The government calls this the "second stage selection process" of a VOR arrangement.) For example, under current VOR arrangements, a vendor could well be in the position of having paid for a type and/or amount of insurance coverage that the vendor would not normally carry in order to qualify to become a VOR under a VOR arrangement and, potentially, not sell any goods or services to the Ontario government as a result of being on the VOR arrangement.

Small and medium-sized business owners said that having to put in place and pay "up-front" for items like insurance is a deterrent to responding to a Request for Proposal to establish a VOR arrangement.

Benefits

Requiring a VOR vendor to put items such as insurance in place only when they actually do business with the government — not as a condition of becoming a VOR — would reduce vendors' costs.

This change has the potential to increase the number of qualified VOR vendors who are able to provide goods or services to the Ontario government, who otherwise saw the up-front financial expenditures — before getting any Ontario government business— as a deterrent to responding.

Next Action Steps

The government will need to conduct an internal analysis and consultation that focuses on identifying any policy and/or administrative issues associated with revising VOR arrangement requirements that may lessen up-front cost implications for vendors.

The government must, of course, exercise prudence in its procurement activities. Its internal analysis and consultation should look at the due diligence impacts of implementing certain requirements at the stage when a vendor actually enters into an agreement under the VOR arrangement to supply goods or services to the government,

compared to requiring a vendor to do so up-front in order to qualify to participate in a VOR arrangement.

Recommendation 10: Develop VOR Arrangements and Requirements Based on Project Risk

Develop VOR arrangements with "tiered" risk management terms and conditions, to offer vendors the option of qualifying for low risk, medium risk and/or high risk assignments.

Consultation participants questioned what appeared to them to be a standard set of risk management terms and conditions (e.g., insurance, limitation of liability, etc.) for an assignment, regardless of the associated level of risk for that assignment.

Implementation of this recommendation would mean that the government could establish a VOR arrangement with "tiered" risk management terms and conditions. In particular, it could include three different assignment streams: low risk, medium risk, and high risk. Each level of risk would have its own, appropriate set of terms and conditions. Before starting a second stage selection process, the government buyer would conduct a risk assessment to select the most applicable "risk stream" for the assignment.

Benefits

VOR arrangements with "tiered" risk management terms and conditions have the potential for both small and medium-sized business vendors and the government to save money. Vendors would have the opportunity to lower their overhead costs associated with varying risk management requirements and be more competitive on price by choosing to qualify for one or more VOR arrangement risk stream(s). This would potentially increase the pool of competitive bidders. An expanded vendor pool and lower overhead costs for small vendors may result in lower costs for the government.

Next Action Steps

The government should conduct an internal analysis and consultation involving key OPS stakeholders to identify the policy and administrative issues that may need to be addressed to develop VOR arrangements based on assignment risk.

Recommendation 11: Considering Innovative and Pilot Project Proposals

Assess if it is feasible to develop a policy framework that will provide a structure for the government to receive and consider vendors' innovative or pilot project proposals.

There is currently no way for vendors to offer the government innovative or pilot project proposals outside the competitive tendering process. As a result, the government may be

missing out on opportunities to use new and creative goods and services. The size, complexity and, often, unique nature of many government programs offers an excellent testing ground for goods and services that may have wider application.

Benefits

Providing a formal process for vendors to be proactive in offering the Ontario government innovative goods and/or services and pilot project opportunities would support small and medium-sized business entrepreneurship and Ontario's economic growth and development. It also would bring to the government's attention solutions and pilot project opportunities that government buyers have not identified either internally or through a formal competitive procurement process.

Next Action Steps

Within the context of the government's existing procurement policy requirements, key OPS stakeholders should explore potential implementation options for considering innovative and pilot project proposals.

For More Information

For more information on the Doing Business with the Ontario Government Task Force or Ontario government procurement policies and practices, please:

- visit the Procurement Policy and Information Technology Procurement Branch website at http://www.ppitpb.gov.on.ca; or
- call the Branch at 416-327-3555.

For a copy of this report or the executive summary, please:

- visit the Ministry of Government Services' website at http://www.mgs.gov.on.ca; or
- call 416-327-3555.

Appendices

Appendix 1: News Release and Backgrounder

Appendix 2: Sample Consultation Advertisement Copy

Appendix 3: Sample Agenda for Consultations with Small and Medium-sized Business

Appendix 4: Overview of Procurement Policies & Processes

Appendix 1
News Release and Backgrounder

Ontario

News Release
Communiqué

Management Board Secretariat | **Secrétariat du Conseil de gestion**

For Immediate Release
January 27, 2005

ONTARIO GOVERNMENT APPOINTS TASK FORCE TO IMPROVE THE WAY IT DOES BUSINESS WITH SMALL AND MEDIUM-SIZED COMPANIES

Task Force To Study Government Procurement Policies And Processes To Help Identify Barriers

QUEEN'S PARK – The Ontario government has formed the Doing Business with the Ontario Government Task Force to study how the government can improve the way it does business with small and medium-sized companies, Chair of Management Board of Cabinet Gerry Phillips announced today.

Wayne Arthurs, MPP for Pickering-Ajax-Uxbridge, and Parliamentary Assistant to the Chair of Management Board of Cabinet, will chair the task force that will help identify barriers that small and medium-sized companies encounter when trying to do business with the government and study government procurement policies.

The task force will hold meetings in five cities across the province to hear from representatives of various business organizations.

"The government is holding these discussions to help find ways to enhance access to government procurement opportunities," said Arthurs. "The task force will not only help companies learn more about existing procurement policies and processes, it will provide the government with recommendations on how to improve the way it does business with small and medium-sized companies on a go-forward basis."

Each session will include an overview of the current procurement processes and roundtable discussions so that presenters can make recommendations for improvement. Once the consultations are complete, the task force will prepare a report with recommendations to be delivered to the Chair of Management Board of Cabinet.

"The McGuinty government recognizes the central role small and medium-sized businesses play in driving our economy," said Phillips. "By giving Ontario businesses the tools they need to become more competitive and prosperous, we are helping strengthen our economy."

- 30 -

Contact:
Jerry Khouri
Office of the Parliamentary Assistant
416-325-2939

Contact:
Ciaran Ganley
MBS Communications
416-327-2793

Disponible en français

www.mbs.gov.on.ca

Backgrounder
Document d'information

Ontario

Management Board Secretariat | **Secrétariat du Conseil de gestion**

January 27, 2005

Doing Business with the Ontario Government Task Force

The Ontario government has formed a task force to study government procurement policies and processes, and to help identify barriers that small and medium-sized businesses may encounter when trying to do business with the government.

The Doing Business with the Ontario Government Task Force was established to consult stakeholders and study the relationship between small and medium-sized businesses and the procurement policies and processes of the Ontario government. Small and medium-sized businesses are defined as having less than 500 employees.

It will help identify opportunities, efficiencies and savings for small and medium-sized businesses to be more competitive and prosperous.

The task force will hold one-day sessions in Ottawa, London, Thunder Bay, Ajax, and Toronto in the coming weeks. These consultations will provide businesses and the Ontario government with an opportunity to explore a number of issues and appropriate solutions.

Consultation will take place with a number of business organizations, as well as representatives from individual small and medium-sized businesses. Notices (giving dates and locations for each community) will appear in local newspapers and on the Management Board Secretariat website. For more information contact Lucy Filice, Procurement Policy and IT Procurement Branch, at 416-327-3179.

The task force will review the Ontario government's procurement policies and processes for potential barriers to small and medium-sized businesses. In particular, it will:

- Consult with small and medium-sized businesses to help find ways to enhance access to government procurement opportunities
- Study the relationship between small and medium-sized businesses and the procurement policies and processes of the Ontario government
- Identify barriers for small and medium-sized businesses by examining the government's procurement policies and processes
- Prepare a report with recommendations for the Chair of Management Board of Cabinet.

Task force membership will consist of four permanent members:

- Wayne Arthurs, MPP for Pickering-Ajax-Uxbridge, and Parliamentary Assistant to Gerry Phillips, Chair of Management Board of Cabinet
- Tony Wong, MPP for Markham, and PA to Joseph Cordiano, Minister of Economic Development and Trade
- Judy Marsales, MPP for Hamilton West
- Phil McNeely, MPP for Ottawa-Orléans.

In addition, the task force will add a local MPP in each of the communities where consultations are held. Each session will include an overview of the current process for doing business with the Ontario government, roundtable discussions and a wrap-up summarizing the session and providing key recommendations.

Once consultations are completed, the committee will present recommendations to the Chair of Management Board of Cabinet.

- 30 -

Contact:
Jerry Khouri
Office of the Parliamentary Assistant
416-325-2939

Contact:
Ciaran Ganley
MBS Communications
416-327-2793

Disponible en français

www.mbs.gov.on.ca

Appendix 2
Sample Consultation Advertisement Copy

DOING BUSINESS WITH THE ONTARIO GOVERNMENT TASK FORCE

The government of Ontario, through the Doing Business with the Ontario Government Task Force, is exploring ways to enhance its procurement policies and processes and improve the way it does business with small and medium-sized companies.

A full-day session consultation will be held February 18, 2005, starting at 9:30 a.m. at the McLean Centre, 95 Magill Drive in Ajax.

Anyone interested in attending the session and participating in the round-table discussions, or making an oral presentation, can call 1-866-260-7650 between 7 a.m. and 6 p.m., Monday to Friday. Pre-registration is recommended.

Written submissions are welcome. They can be submitted at the session or through the Management Board Secretariat website. Deadline for written submissions is April 4, 2005. For more information about how to make a submission or about the task force in general, visit www.mbs.gov.on.ca

Paid for by the Government of Ontario.

Appendix 3
Sample Agenda for Consultations with Small and Medium-sized Businesses

"Doing Business with the Ontario Government" Task Force

Agenda

9:30 a.m. to 12:00 p.m.

- Welcome
- Overview of Procurement Policies and Processes
- Questions and Answers with Comments
- Roundtable Discussion
- Summary of Morning Session

12:00 p.m. to 1:00 p.m.

- Break for Lunch

1:00 p.m. to 4:00 p.m.

- Scheduled Oral presentations (*10 minutes per oral presentation)*

Thanks for joining us!

Appendix 4
Overview of Procurement Policies and Processes

Doing Business with the Ontario Government Task Force

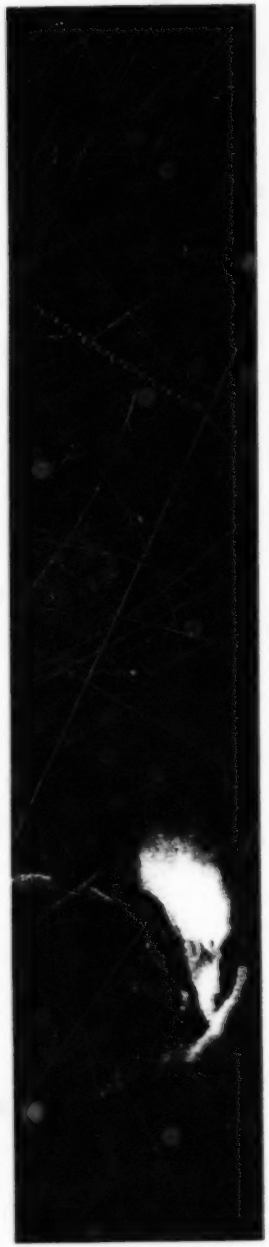
Overview of Procurement Policies & Processes

Procurement Policy and IT Procurement Branch
Supply Chain Management, Ontario Shared Services
Management Board Secretariat

March 2005

Ontario

Procurement Policy Overview



Procurement Policy Overview

- Management Board of Cabinet (MBC) Procurement Directives for Goods and Services, Information Technology and Consulting Services apply to all ministries and certain agencies
- Advertising/creative communications services procurements covered under separate directive administered by Advertising Review Board
- The directives otherwise delegate authority to Deputy Ministers for their ministry procurement activities within the corporate procurement policy framework
- Subject to corporate procurement policy framework, acquisitions occur through specific ministry procurement processes with the operational assistance of MBS, and/or corporate vendor of record (VOR) arrangements

Procurement Requirements

- Competitive procurement process must be fair, transparent, open and advertised widely, using electronic tendering where possible, for:
  - Goods acquisitions valued at $25,000 or more; and,
  - Services and construction acquisitions valued at $100,000 or more
- No local preference – Provincial procurement subject to Agreement on Internal Trade (AIT) but no international trade obligations apply
- Services between $25,000 and $100,000 must be acquired through a competitive invitational process by inviting at least three written bids/proposals
- Ministries must provide an annual report to MBS on their use of consulting services, including their planning, acquisition and management of consulting services during each fiscal year; the report is due May 31 for the previous fiscal year

Procurement Requirements(cont'd)

- Per the Ontarian's with Disabilities Act, ministries must consider the accessibility for persons with disabilities of the goods/services to be purchased
- Contract awards valued at $25,000 or more can only be made to vendors in good tax standing
- No conflict of interest or unfair advantage: both for vendors and Ontario Public Sector (OPS) staff. Government has right to disqualify vendor during procurement process or over term of contract if there is a conflict of interest. In particular, during the procurement process vendors must:
  - sign declaration that they do not have confidential information that would give them an unfair advantage
  - identify former OPS employees who participated in preparing bid response to see if that gave them an unfair advantage
  - In the case of public and media relations services and polling services, declare if they are registered under the Lobbyist Registration Act, including whom they have lobbied on behalf, the ministries and subject matter in the past 12 months

Procurement Requirements(cont'd)

For Procurements Less Than $25,000

- Ministries may establish their own procurement processes for goods and services acquisitions below $25,000 but such processes must support the principle of obtaining value for money
- Where established for the required goods or services, a VOR arrangement may be used for purchases where the estimated total contract value is less than $25,000
- When a VOR arrangement is not utilized, ministries must provide a clear description of its requirements so potential vendor(s) can submit valid responses
- Ministries must ensure that the selected vendor(s) can meet the requirements as outlined and that value for money is achieved
- A legal agreement is entered into with the selected vendor(s)

Procurement Requirements(cont'd)

- Non-competitive (single/sole source) procurements above the thresholds are permitted based on certain justifiable exceptions, e.g.:
  - where an unforeseeable situation of urgency exists and the procurement cannot be concluded in time to meet requirements;
  - procurement of consulting services or goods regarding confidential matters where their disclosure could reasonably be expected to compromise government confidentiality, cause economic disruption or otherwise be contrary to the public interest;
  - where public order or security would be compromised;
- A comprehensive justification for non-competition must be documented and receive appropriate prior approval.

Advertising & Creative Communications Services

- Ministries may establish their own procurement processes for advertising and creative communications services acquisitions below $25,000
- Procurements from $25,000 to $500,000 must be done either through a separate competitive process or through one of the "pools" established competitively by the Advertising Review Board (ARB)
- The ARB conducts competitions for procurements valued at $500,000 or more
- ARB conducts separate open competitions for assignments of a large and/or recurring nature, eg. Foodland Ontario campaign
- The members of the ARB have private sector and industry experience in advertising and creative communications services; members are appointed by the Chair of Management Board of Cabinet (MBC)

Procurement Approvals

- MBC approves:
  - Common Purpose Procurements, IT standards and all exemptions, amendments and revisions to the procurement directives
  - All proposed competitive and non-competitive procurements valued at $1M or more
  - All proposed non-competitive procurements for consulting services valued at $500,000 or more
  - All proposed changes to consulting services agreements which increase the value to $1M or more

Procurement Approvals (cont'd)

- Deputy Ministers approve:
  - All proposed non-competitive consulting services procurements valued between $25,000 and $500,000 and all proposed non-competitive IT procurements valued between $100,000 and $1M
  - The selected vendor and proposed agreement for consulting services procurements valued at $750,000 or more
- Ministers and Deputy Ministers approve:
  - All proposed competitive consulting services procurements valued between $750,000 and $1M and any proposed changes to consulting services agreements which increases the value to $750,000 or more
- Deputy Ministers (or delegates) approve:
  - All other procurements

Procurement Process

Procurement Process
Solicitation of Bids

- Potential vendors consulted during business case development; may be through Request for Information (RFI), vendor consultations prior to the release of the Request for Proposal (RFP), or draft RFP.
- Once formal RFP is issued, strict rules apply to communications between vendors and buyers
- Official contact designated for all vendor inquiries
- All questions must be submitted in writing and all questions and answers must be made available to all potential bidders

Procurement Process
Solicitation of Bids (cont'd)

- RFP must include clear statement of requirements and full description of the evaluation process, including:
  - All mandatory requirements and the weighting for each rated requirement, including price
  - Overall evaluation methodologies, including any minimum score requirements
- Opportunities must be posted for at least 15 calendar days (at least 30 days for Alternative Service Delivery procurements)
- Draft contract/form of agreement included with RFP; includes standard government requirements, ie. intellectual property ownership, limits on liability, etc.

Procurement Process

Receipt of Bids

- All bids must be sealed and delivered on time to the designated location
- Conditional proposals are rejected
- Late bids returned unopened
- Buyer's RFP and vendor's bid become binding contract, ie. "Contract A"

Procurement Process
Evaluation and Selection

- Evaluation team members must:
  - Follow evaluation process set out in the RFP
  - Evaluate vendor submissions; no assumptions
- Evaluation process usually has three independent stages:
  - Mandatory criteria
  - Rated requirements
  - Pricing (done last to avoid any influence on rated evaluation)

Procurement Process
Contract Award

- Contract is awarded to highest ranked proposal, ie. "Contract B"
- Contract finalization:
  - No material change to pro forma contract in RFP; and
  - No substantive post award negotiations
- If requested by vendors, ministries provide debriefings explaining why their bid was unsuccessful (subject to FIPPA); facilitates better vendor responses in the future

Vendor of Record (VOR) Arrangements

Vendor of Record Arrangements

- A VOR arrangement is a fixed contractual arrangement with multiple vendors for the on-going acquisition of commonly purchased goods or services within a defined term (e.g., 3 years)
- Established through open, competitive procurement processes (i.e., RFPs posted on MERX)
- Vendors expected to agree to common terms and conditions, including pricing
- Buyers do not need to repeat full open, competitive process and get access to preferred pricing (i.e., volume pricing)

Vendor of Record Arrangements

- The VOR program is designed to ensure that qualified vendors, including small and medium sized vendors, get access to government contracts once they have been selected as a VOR
- MBS contracts directly with all suppliers although vendors are free to subcontract to others in the agreement if they wish
- Vendors, including small and medium sized vendors, do not have to have broad experience to qualify for a VOR arrangement
- For example, in our IT consulting services VORs, requirements have been structured so that vendors can submit responses for one or more roles at one or more experience levels within one or more computing environments

Vendor of Record Arrangements
Vendor Access

- Generally closed for the duration of the contract
- Can include refresh process to:
  - Capture new vendors
  - Allow for pricing changes by existing vendors
  - Allow for the addition of services/products by existing vendors
- Refresh occurs at defined points during the term of the VOR arrangement and must be fair, open and competitive

Vendor of Record Arrangements

- Depending on the value of the assignment, buyers may be required to complete a second stage selection process.
- The second stage selection process shall be concerned only with the particular goods and services to be acquired, including the specific needs and issues for a particular project or assignment, such as:
  - contract price for the project or assignment(vendors may have the option during the second stage selection process to discount their rates);
  - the resources to be assigned; and,
  - availability and timelines to complete the project or assignment.
- Ministries do not need to evaluate general requirements of vendors already determined through the initial competition to establish the VOR arrangement.
- Where multiple bids or proposals are required under a VOR arrangement, the solicitation and evaluation procedure and criteria must be designed to achieve best value for money in the context of the specific goods and services being acquired.

Vendor of Record Arrangements

- The following are the second stage selection process thresholds:
  - **Under $25,000** - Select one, or consider more than one vendor, from VOR arrangement.
  - **$25,000 - $249,999** – Ministries must consider, and invite (where applicable), at least **3 vendors** to submit bids or proposals.
  - **$250,000 - $749,999** – Ministries must consider, and invite (where applicable), at least **5 vendors** to submit bids or proposals.
  - **Over $750,000** - Ministries must proceed with full open competition, unless a higher threshold is otherwise approved by MBC for a particular VOR arrangement.

Vendor of Record Arrangements MBS Corporate Responsibilities

- Communicate corporate VOR arrangement guidelines and policies to vendors and clients
- Make VOR arrangement User Guide available to clients
- Maintain vendor contact lists and profiles
- Monitor VOR arrangement usage and vendor performance
- Resolve issues not settled at client level and / or matters arising from Master Agreement
- Conduct any scheduled refresh processes described in the original RFP
- Extend Master Agreement, discontinue VOR arrangement or issue new RFP upon expiry

Vendor of Record Arrangements Client Responsibilities

- Select Vendor/Resources; may involve additional second stage selection process
- Sign Service Level Agreement
- Approval / Acceptance of deliverables
- Approve and pay invoices
- Submit performance evaluation reports to MBS upon completion of assignments

Vendor of Record Arrangements
Vendor Responsibilities

- Establish and maintain relationships with ministry clients through effective marketing
- Determine resource and time requirements for assignments in response to client requests through the second stage selection process
- Sign Service Level Agreement (if successful)
- Maintain and ensure the availability of qualified resources as proposed
- Transfer of knowledge to Ontario Public Sector staff during services assignments

New Suite of IT Consulting Services Vendor of Record Arrangements

- A suite of five (5) RFP's to establish new IT Consulting Services VOR arrangements for:
  - Telecommunications (implemented February 1st)
  - Legacy (implemented March 1st)
  - Task Based Resources (targeted April 1st implementation)
  - Solution Based (targeted April implementation)
  - Business and Management (targeted April implementation)

- The new VOR arrangements are being established to reflect new roles and environments or services which incorporate changes in user needs and new technologies

- One (1) refresh opportunity available for Task-Based Resources VOR only. This will allow only new entrants to the VOR arrangement

New Suite of IT Consulting Services

Vendor of Record Arrangements

- The evaluation of price for each VOR includes a customized pricing methodology to reduce large price variation with each VOR:
    - The Per Diem Rates that Proponents were required to propose are Ceiling Rates
    - Scores for each of the rates proposed for each experience level are being calculated based on its proximity to the Average Rate (based on proponents who qualified to have their submission prices evaluated)
    - Any proposed Per Diem Rate within any experience level which is more than 25% higher than the Average Rate will receive a score of zero (0) and will be disqualified from further evaluation

New Suite of IT Consulting Services Vendor of Record Arrangements

- Contain provisions to ensure more competitive pricing through "Most Favoured Client" rate requirement and maximum pricing for an assignment vs fixed per diem rates for an assignment
- Vendors will have the option of reducing their ceiling rates when responding to a Request for Services at the second stage selection process
- Vendors must maintain the discounted rate for that ministry for the year
- Vendors have the option to return to their originally proposed ceiling rates at the next anniversary date of the Master Agreement

RESOURCES:

Visit the Procurement Policy & IT Procurement Branch website at:

http://www.ppitpb.gov.on.ca

or call us at:

416-327-3555

In addition, MBS, through its website, vendor meetings and presentations to conferences/business associations, provides training on how to do business with the Ontario government, including where to find out about procurement opportunities and how to best respond